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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,530	11/28/2000	Nickhil Jakatdar	509982000600	9920

20872 7590 09/04/2003  
MORRISON & FOERSTER LLP  
425 MARKET STREET  
SAN FRANCISCO, CA 94105-2482

EXAMINER

PHAM, HOA Q

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/727,530

Applicant(s)

JAKATDAR ET AL.

Examiner

Hoa Q. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-19 is/are allowed.
- 6) ☒ Claim(s) 1-7, 20-22, 26, 27 and 29-33 is/are rejected.
- 7) ☒ Claim(s) 28 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I (claims 1-24 and 26-33) in Paper No. 6 is acknowledged.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 20-22, 26-27, 29, 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conrad et al (5,963,329).

Regarding claims 1-4, 20-22, and 31-33, Conrad et al discloses a method and apparatus for measuring the profile of small repeating lines in which the library of model structure including line width, line spacing, etc, Conrad et al does not teaches that the library of model structure includes a plurality of dimensions of a grating such as minimum value, maximum value, a grating top critical dimension, a grating bottom critical dimension, a grating thickness and an underlying thickness. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to compile the library of model structure by including data representing combinations of grating dimensions if additional dimensions are measured, the device would function in the same manner.

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Regarding claims 5-7, the storage medium such as CD-ROM, magnetic tape etc., are available in the computer system of Conrad. Thus, it would have been obvious to store such data files in the storage medium and the files are available for network use.

Regarding claims 26, 27 and 29, see claim 26 of Conrad et al for comparison.

***Allowable Subject Matter***

4. Claims 8-19 are allowed.
5. Claims 28 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: There was no prior art found by the examiner that suggested modification or combination with the cited art so as to satisfy the combination of all the limitations in claims 8, 14, and 23.

As to claims 8 and 14, the prior art of record, taken alone or in combination, fails to disclose or render limitations "the computer activates the compiler to create the master library, the compiler prompting specification of parameter set of grating dimensions, the compiler validating the specified parameter set, the compiler creating master library of grating profiles, based on the validated parameter set, and corresponding calculated spectrum data", in combination with the rest of the limitations of claims 8 and 14.

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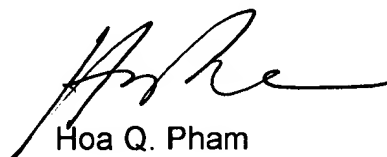
As to claim 23, the prior art of record, taken alone or in combination, fails to disclose or render limitations "flagging the grating spectrum ... in the run time library" and "selecting the profile ...grating spectrum data", in combination with the rest of the limitations of claims 8 and 14.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Following references are relative to spectroscopic scatterometer system: McNeil et al (5,867,276), Scheiner et al (6,556,947), Xu et al (6,590,656 and 6,483,580).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (703) 308-4808. The examiner can normally be reached on 6:30 AM to 5 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Hoa Q. Pham

Primary Examiner

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HP

August 24, 2003